

sary. *Carr vs. Gott*, 6 *Gill & Johns.*, 312 ; *Fowler vs. Lee*, 10 *ibid.*, 358.

I do not think there is anything in the delay in bringing the case growing out of the bill filed by Price in 1830, to a close, which should now cause this court to treat the judgment as an invalid security, as it is quite obvious that Price might himself have long since brought that case to an end.

I think the executors of the deceased are properly before the court as such, and that there is evidence of the sufficiency of the personal estate.

The running of the act of limitations was suspended by the injunction from 1840 to 1846, and therefore the plea of the statute is no defence.

My impression, therefore, is, that here is a valid unsatisfied judgment, and that the personal estate of the deceased debtor is insufficient to pay him ; and not seeing in the objection urged by the defendant's counsel any reason why the court should not pass a decree for the sale of the real estate left by the debtor, a decree will be signed accordingly. But, for the sake of convenience, and to avoid conflict and confusion, this case will be consolidated with the case upon the mortgage referred to in the proceedings.

[No appeal was taken from this decree.]

SAMUEL JONES, JR.	}	
VS.		
ROBERT B. HANCOCK ET AL.		DECEMBER TERM, 1847.

[MECHANICS' LIEN.]

THE law relating to the lien of mechanics and others upon buildings, only prefers such lien to every other lien or incumbrance, which attached upon the building, *subsequent* to the commencement of the same.

If there be liens on the property, *prior* to the commencement of the building upon which the work is done, or for which the materials are found, the lien for work and materials must be postponed to such prior incumbrance.